

**DEPARTMENT OF STATE REVENUE  
LETTER OF FINDINGS NUMBER: 99-0518  
INDIVIDUAL INCOME TAX  
For The Tax Periods: 1995, 1996**

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**ISSUE**

I. **Individual Income Tax – IRA Rollover Distributions**

**Authority:** IC 6-3-2-3.5, I.R.C. §408.

The Taxpayer protests the Department's assessment on IRA distributions.

**STATEMENT OF FACTS**

Taxpayer was audited and assessed individual income tax on an IRA distribution. More facts supplied as necessary.

I. **Individual Income Tax: IRA Rollover Distributions**

**DISCUSSION**

Taxpayer was assessed income tax for an IRA distribution. The assessment was based on Taxpayer's federal form 5498 (Individual Retirement Arrangement Information) which showed a difference between the fair market value of the account and amount of rolled over contributions.

The computation of Indiana Adjusted Gross Income for individuals begins with the definition provided in Section 62 of the Internal Revenue Code. IC 6-3-1-3.5. Furthermore, pursuant to Section 408 of the Internal Revenue Code, distributions from individual retirement accounts are included in gross income. I.R.C. 408(d) states:

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(1) IN GENERAL.- Except as otherwise provided in this subsection, any amount paid or distributed out of an individual retirement plan shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

...

(3) Rollover Contribution.-An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

(A) IN GENERAL. -Paragraph (1) does not apply to any amount paid or distributed out of an individual retirement account or individual retirement annuity to the individual for whose benefit the account or annuity is maintained if-

- (i) the entire amount received (including money and any other property) is paid into an individual retirement account or individual retirement annuity (other than an endowment contract) for the benefit of such individual not later than the 60<sup>th</sup> day after the day on which he receives the payment or distribution....

The auditor assessed Taxpayer on the amount of the distribution that was not rolled over within the 60 day period. That amount is considered to be a taxable distribution.

### **FINDING**

The Taxpayer's protest is respectfully denied.